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10/705,263	11/10/2003	Michael K. Brann	100041-41178	3204

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EXAMINER

GATES, ERIC ANDREW

ART UNIT	PAPER NUMBER
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3722

DATE MAILED: 09/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/705,263	BRANN, MICHAEL K.	
	Examiner	Art Unit	
	Eric A. Gates	3722	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 12 June 2006.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-30, 32, 33, 35, 36, and 38-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 44 and 45 is/are allowed.
- 6) ☒ Claim(s) 1-13, 15-30, 32, 33, 35, 36, 38-41, and 43 is/are rejected.
- 7) ☒ Claim(s) 14 and 42 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

1. This office action is in response to Applicant's amendment filed on 12 June 2006.

### ***Claim Objections***

2. Claim 41 is objected to because of the following informalities: the phrase "said support surface" lacks antecedent basis. For the purposes of examination, "said support surface" has been taken to represent the table surface on which the binder is placed when in the self-supporting configuration. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-6, 8-11, 15-18, 21, 32, 33, 40, and 41 are rejected under 35 U.S.C. 102(b) as being anticipated by Vilona (U.S. Patent 4,603,995).
5. Regarding claim 1, Vilona discloses a binder 10 comprising: a spine 22 having a first edge (right side in figure 1) and a second edge (left side in figure 1); a front cover 20 (this identification is reversed from that given in the specification but it is only a matter of identifying it as such, as it does not affect the use of the binder to reverse the nomenclature of the covers) pivotally coupled to said first edge of said spine; a rear

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cover 18 pivotally coupled to said second edge of said spine, wherein said front cover is directly or indirectly attachable to said rear cover to form a self-supporting binder (see figure 3); and a binding mechanism 14 fixedly and non-rotatably coupled to said spine (coupled to the spine through front cover 20), wherein said binding mechanism is coupled to said spine in an off-center manner such that said binding mechanism is located closer to one of said edges than the other one of said edges (see figure 1).

6. Regarding claim 2, Vilona discloses wherein said spine and said covers are generally flat, planar components and are generally rectangular in front view (see figure 1).

7. Regarding claim 3, Vilona discloses wherein said first and second edges are located on opposite sides of said spine (see figure 1).

8. Regarding claim 4, Vilona discloses wherein said binding mechanism 14 is a three ring binding mechanism.

9. Regarding claim 5, Vilona discloses wherein said binder is movable between a closed position (not shown but inherent), wherein said front and rear covers are generally parallel and facing each other (covers will be more parallel when binder is loaded with paper) and said binding mechanism is generally located between said front and rear covers, and a display position (figure 3) wherein said front cover is directly or indirectly attached to said rear cover to form a self-supporting binder and said binding mechanism is not generally located between said front and rear covers (as shown in figure 3).

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10. Regarding claim 6, Vilona discloses wherein said binder has a generally closed generally triangular shape in end view when said binder is in said display position (as seen in figure 3, the end view is generally triangular, as formed by surfaces 18/22/20 and the table surface).

11. Regarding claim 8, Vilona discloses wherein said rear cover 18 includes an extension flap 16 that is attached to said front cover when said front cover is directly or indirectly attached to said rear cover (see figure 3).

12. Regarding claim 9, Vilona discloses wherein said extension flap is pivotally coupled to a main portion of said rear cover (pivotally coupled to the rear cover 18 along hinge 32).

13. Regarding claim 10, Vilona discloses further comprising attachment means 50/52 located on said extension flap and on said front cover, wherein said attachment means can be operated to couple said extension flap to said front cover (see figure 3).

14. Regarding claim 11, Vilona discloses wherein said part 52 of said attachment means located on said front cover is located on an inner surface of said front cover (see figure 1).

15. Regarding claim 15, Vilona discloses wherein said spine 22 is a generally longitudinal panel and has a lateral width, and wherein said binding mechanism 14 is not centered along said lateral width (see figure 1).

16. Regarding claim 16, Vilona discloses wherein said spine 22 includes a longitudinal centerline and said binding mechanism 14 includes a longitudinal centerline

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which is generally not aligned with said longitudinal centerline of said spine (see figure 1).

17. Regarding claim 17, Vilona discloses wherein said binding mechanism is located generally adjacent to said one of said edges such that a display sheet bound in said binding mechanism lies generally flat and parallel with one of said front or rear covers when said binder is in a display position wherein said front cover is directly or indirectly attached to said rear cover to form a self-supporting binder (see figure 3).

18. Regarding claim 18, Vilona discloses wherein said binder is configured such that when said front cover is directly or indirectly attached to said rear cover to form a self-supporting binder, said binding mechanism extends generally horizontally (see figure 3, rings 30 of the binding mechanism 14 extend generally horizontally from the binder).

19. Regarding claim 21, Vilona discloses further comprising a plurality of sheets 54 bound by said binding mechanism (see figure 3).

20. Regarding claim 32, Vilona discloses wherein at least one of said front or rear cover includes attachment means 50/52 that can be operated to couple front and rear covers to form said self-supporting binder (see figure 3).

21. Regarding claim 33, Vilona discloses wherein said attachment means 50/52 is located on both said front and rear covers (see figure 1, means 50 is on rear cover 18 and means 52 is on front cover 20).

22. Regarding claim 40, Vilona discloses wherein said binding mechanism is positioned relative to said spine when said binder is in said closed position, and wherein

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said binding mechanism is in the same position relative to said spine when said binder is in said display position (see figures 1 and 3).

23. Regarding claim 41, Vilona discloses wherein said spine is generally flat and planar, and wherein said front cover is directly pivotally coupled to said first edge, and said rear cover is directly pivotally coupled to said second edge, and wherein said generally planar spine is aligned in a plane that is generally parallel to said support surface (table surface on which the binder is placed in figure 3) when the binder is in said self-supporting configuration. (see figure 3).

24. Claims 24, 35, and 36 are rejected under 35 U.S.C. 102(b) as being anticipated by Vilona (U.S. Patent 4,603,995).

25. Regarding claim 24, Vilona discloses a binder 10 comprising: a spine 22 having a longitudinal centerline; a front cover 20 (this identification is reversed from that given in the specification but it is only a matter of identifying it as such, as it does not affect the use of the binder to reverse the nomenclature of the covers) pivotally coupled to said spine; a rear cover 18 pivotally coupled to said spine, wherein said front cover is directly or indirectly attachable to said rear cover to form a self-supporting binder (see figure 3); and a binding mechanism 14 coupled to said spine and having a longitudinal centerline, wherein said binding mechanism is coupled to said spine (through front cover 20) in an off-center manner such that said longitudinal centerline of said binding mechanism is generally not aligned with said longitudinal centerline of said spine (see figure 1).

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26. Regarding claim 35, Vilona discloses wherein at least one of said front or rear cover 20/18 includes attachment means 50/52 that can be operated to couple front and rear covers to form said self-supporting binder (see figure 3).

27. Regarding claim 36, Vilona discloses wherein said attachment means 50/52 is located on both said front and rear covers 20/18 (see figure 1).

28. Claims 25-30, 38, 39, and 43 are rejected under 35 U.S.C. 102(b) as being anticipated by Vilona (U.S. Patent 4,603,995).

29. Regarding claim 25, Vilona discloses a method for manipulating a binder 10 comprising: providing a binder 10 having a spine 22 having a first edge (right side in figure 1) and a second edge (left side in figure 1), a front cover 20 (this identification is reversed from that given in the specification but it is only a matter of identifying it as such, as it does not affect the use of the binder to reverse the nomenclature of the covers) pivotally coupled to said first edge of said spine, a rear cover 18 pivotally coupled to said second edge of said spine, and a binding mechanism 14 coupled to said spine, wherein said binding mechanism is coupled to said spine in an off-center manner such that said binding mechanism is located closer to one of said edges (see figure 1); and directly or indirectly attaching said front cover to said rear cover to form a self-supporting binder (see figure 3).

30. Regarding claim 26, Vilona discloses wherein said attaching step includes moving said binder from a closed position (not shown but inherent), wherein said front and rear covers are generally parallel (covers will be more parallel when binder is



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loaded with paper) and facing each other and said binding mechanism is generally located between said front and rear covers (as it would be if the binder as shown in figure 1 was closed), to a display position (see figure 3) wherein said front cover is directly or indirectly attached to said rear cover to form a self-supporting binder and said binding mechanism is not generally located between said front and rear covers.

31. Regarding claim 27, Vilona discloses wherein said binder has a generally closed generally triangular shape in end view when said binder is in said display position (as seen in figure 3, the end view is generally triangular, as formed by surfaces 18/22/20 and the table surface).

32. Regarding claim 28, Vilona discloses wherein said binding mechanism extends generally horizontally when said binder is in said display position (see figure 3, rings 30 of the binding mechanism 14 extend generally horizontally from the binder).

33. Regarding claim 29, Vilona discloses wherein said spine 22 includes a longitudinal centerline and said binding mechanism 14 includes a longitudinal centerline which is generally not aligned with said longitudinal centerline of said spine (see figure 1).

34. Regarding claim 30, Vilona discloses further comprising the steps of binding a plurality of pages 54 together by said binding mechanism (see figure 3), and displaying said pages such that said pages lie against said front cover 20 in a generally flat manner substantially without any creases in said pages caused by lying over a junction of said spine and one of said covers (see figure 3).

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35. Regarding claim 38, Vilona discloses wherein at least one of said front or rear cover 20/18 includes attachment means 50/52 that can be operated to couple front and rear covers to form said self-supporting binder.

36. Regarding claim 39, Vilona discloses wherein said attachment means 50/52 is located on both said front and rear covers (see figure 1).

37. Regarding claim 43, Vilona discloses wherein said spine 22 is generally flat and planar, and wherein said front cover 20 is directly pivotally coupled to said first edge, and said rear cover 18 is directly pivotally coupled to said second edge, and wherein said generally planar spine is aligned in a plane that is generally parallel to said support surface when the binder is in said self-supporting configuration (see figure 3).

***Claim Rejections - 35 USC § 103***

38. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

39. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vilona in view of Pell et al. (U.S. Patent 5,494,366)

40. Regarding claim 7, Vilona discloses the invention substantially as claimed, except Vilona does not disclose further comprising closure means located on said front and rear covers for retaining said binder in said closed position.

Pell et al. teaches the use of a binder 10 with a closure assembly 60 located on front 12 and rear 24 covers for the purpose of maintaining the binder in a closed position. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder of Vilona with the closure means of Pell et al. in order to have a binder that can be locked in a closed position.

41. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vilona in view of Klein (U.S. Patent 1,237,912).

42. Regarding claim 12, Vilona discloses the invention substantially as claimed, except Vilona does not disclose wherein said extension flap is releasably attachable to an inner surface of said rear cover.

Klein teaches the use of a binder including an extension flap 11 that is releasably attachable to an inner surface of a rear cover 1 using a button 14 for the purpose of keeping the extension flap out of the way when not in use. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder of Vilona with the button of Klein in order to have an extension flap that may be safely locked against the back cover of the binder when not in use.

43. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vilona in view of Klein and further in view of Wyant (U.S. Patent 5,375,883).

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44. Regarding claim 13, the modified invention of Vilona discloses the invention substantially as claimed, except Vilona does not disclose further including a pocket located on an inner surface of said rear cover.

Wyant teaches the use of a binder 10 that includes a pocket 12 on the inner surface 36 of the rear cover 34 for the purpose of retaining a wallet 16 with a calculator 14. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder of Vilona with the pocket of Wyant in order to have binder that can be used for holding additional items as desired.

45. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vilona in view of Moore (U.S. Patent 940,345).

46. Regarding claim 19, Vilona discloses the invention substantially as claimed, except Vilona does not disclose wherein one of said front or rear covers includes a plurality of openings to receive the outer edge of said binding mechanism therethrough.

Moore teaches the use of a plurality of openings 24 that are used for the purpose of allowing binding mechanisms 15 to extend therethrough so that the cover can close more completely. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder of Vilona with the openings of Moore in order to have a binder with a cover that confines the bound sheets of paper more tightly.

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47. Regarding claim 20, the modified invention Vilona discloses the invention substantially as claimed, except Vilona does not disclose wherein each of said openings has a grommet extending around its perimeter.

Moore teaches the use of grommets 25 for the purpose of reinforcing the openings 24. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder of Vilona with the grommets of Moore in order to protect the binding mechanism openings.

48. Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vilona in view of Pell et al. (U.S. Patent 5,494,366)

49. Regarding claim 22, Vilona discloses wherein said binder is movable to a closed position (not shown but inherent), wherein said front and rear covers are generally parallel (covers will be more parallel when binder is loaded with paper) and facing each other and said binding mechanism is generally located between said front and rear covers. Vilona does not disclose wherein said binder includes closure means for retaining said binder in said closed position.

Pell et al. teaches the use of a binder 10 with a closure assembly 60 located on front 12 and rear 24 covers for the purpose of maintaining the binder in a closed position. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have combined the binder of Vilona with the closure means of Pell et al. in order to have a binder that can be locked in a closed position.

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50. Regarding claim 23, the modified invention Vilona discloses wherein each cover includes an inner edge and an outer edge, each inner edge being coupled to said spine and said outer edge being located generally opposite the associated inner edge (see figure 1), and wherein said closure means (as modified by Pell et al. from claim 22) are located generally adjacent to said outer edges (see figure 1 of Pell et al.).

***Allowable Subject Matter***

51. Claims 44 and 45 are allowed.

52. Claims 14 and 42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

53. Applicant's arguments, see pages 9-11, filed 12 June 2006, with respect to the rejection(s) of claim(s) 31, 34, and 37 under 35 U.S.C. 103(a) have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Ericson '956.

54. For the reasons as set forth above, the rejections are maintained.

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**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric A. Gates whose telephone number is 571-272-5498. The examiner can normally be reached on Monday-Thursday 7:45-6:15.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Monica Carter can be reached on 571-272-4475. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



EAG  
4 September 2006



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